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Third-Party Defendants, ASIA PACIFIC OIL &
GAS LTD., a Seychelles Islands entity,
7 AMIRZHAN JAKISHEV, and ADILZHAN DZHAKISHEV

8 UNITED STATES DISTRICT COURT
9 CENTRAL DISTRICT OF CALIFORNIA

10
11 KAZENERCOM TOO; ET AL.,) CASE NO. 08:09cv00059-JVS

12 Plaintiffs,)

13 v.)

14 TURAN PETROLEUM, INC.; ET AL.,)

15 Defendants.)

16 TURAN PETROLEUM, INC.,)

17 Defendant and Counterclaimant,)

18 v.)

19 YERKIN BEKTAYEV and KANET MEIRMANOV,)

20 Plaintiffs and Counterdefendant.)

21 TURAN PETROLEUM, INC.,)

22 Defendant and Third-Party Plaintiff,)

23 v.)

24 WELLS FARGO, N.A., YERKIN AKKUZOV,)
25 SABIRGAN DUHALIEV, IGOR MAXIMOV,)

26 Defendants in Third-Party Complaint.)
27)
28)

) Assigned for All Purposes to:

) Hon. James V. Selna

) Dept: 10C

) Date Action Filed January 14, 2009

) Trial Date: None Set

) **DECLARATION OF ADILZHAN DZHAKISHEV IN SUPPORT OF THIRD-PARTY DEFENDANTS' MOTION TO DISMISS SECOND AMENDED THIRD-PARTY COMPLAINT OF YERKIN BEKTAYEV AND KANET MEIRMANOV**

) [Filed concurrently with: [Proposed] Order;
Motion to Dismiss; Declarations of Amirzhan Jakishev and John R. Flocken, Esq.]

) Date: April 30, 2012

) Time: 1:30 p.m.

) Courtroom: 10C

DECLARATION OF ADILZHAN DZHAKISHEV IN SUPPORT OF THIRD-PARTY DEFENDANTS' MOTION TO DISMISS SECOND AMENDED THIRD-PARTY COMPLAINT

1 YERKIN BEKTAYEV and KANET)
2 MEIRMANOV,)

3 Counterdefendants and Third-Party)
4 Plaintiffs,)

5 v.)

6 ASIA PACIFIC OIL & GAS LTD. (incorporated)
7 in the Seychells Islands); AMIRGAN)
8 DZHAKISHEV, ADILZHAN DZHAKISHEV,)
9 YURI VANETIK; ROBERT VAN DUREN;)
10 ROBIN BISARYA; OKKE FINANCIAL LTD.;)
11 ALCINA COMPANY CORP., PINGTON)
12 INVESTMENT LTD.; PINE BROOK S.A.,)
13 HINES INVESTMENTS S.A.; ESSEX)
14 MANAGERS LTD.; VARRIAL FINANCIAL)
15 TRADING LTD.; COAST FINANCE LTD.;)
16 FREEMAN FREEMAN SMILEY LLP,)

17 Third-Party Defendants.)

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19 I, Adilzhan Dzhakishev, declare:

20 1. I am a citizen of the nation of Kazakhstan. Since February, 2012, I reside in
21 the United States as a permanent resident. I am a third party defendant in the above
22 action. I make this Declaration based on my own knowledge and, if called as a witness,
23 could and would testify competently to the matters stated herein.

24 2. I am a director of third-party defendant Asia Pacific Oil & Gas Ltd. Asia
25 Pacific is a foreign entity organized and existing under the laws of the Seychelles Islands
26 and has its principal place of business in London, England. Asia Pacific does not have any
27 offices in the United States. I am a former judge employed by the nation of Kazakhstan
28 and am very familiar with its laws regarding service of process. I retired from being a
Judge in July, 2008.

1 3. I am informed that third-party plaintiffs Yerkin Bektayev and Kanet
2 Meirmanov ("Plaintiffs") attempted to serve the original Verified Third-Party Complaint in
3 this matter on me, my brother Amirzhan Jakishev,¹ and Asia Pacific by mail or delivery
4 thereof to my former residence, located at 30 Rubinshtein Street, Almaty, Republic of
5 Kazakhstan. The current residents at the time of the attempted service at the above
6 address are not and never have been managing or general agents, employees, officers or
7 directors of Asia Pacific. Nor have they ever been managing or general agents or
8 employees for me or my brother Amirzhan. Nor have they ever been authorized by Asia
9 Pacific, me, or my brother, to accept service of process or any legal action against Asia
10 Pacific, me, or my brother. At the time of such attempted service, I was not there, nor did
11 I live at that location any more. Nor were any of the other third party defendants present
12 at the time of such attempted service. Based on my understanding of the law of the
13 Republic of Kazakhstan, the method of service used by Plaintiffs did not comply with the
14 methods of service for the courts of general jurisdiction of the Republic of Kazakhstan.
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17 4. I am further informed that Plaintiffs claim that they served the Verified
18 Amended Third-Party Complaint in this matter on me, my brother Amirzhan, and Asia
19 Pacific by electronic mail and First Class mail on or about June 30 and/or July 8, 2009, at
20 a residence located at 33 Skyridge, Newport Coast, California 92657, where I temporarily
21 lived during 2008. Attached as **Exhibit 1** is a true and correct copy of the mailing envelope
22 used to mail the Verified Amended Third-Party Complaint addressed to me. Attached as
23 **Exhibit 2** is a true and correct copy of the mailing envelope used to mail the Verified
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27 ¹My brother, Amirzhan Jakishev, and I have the same last name, but mine is spelled differently in English because
28 it was misspelled some years ago on my original passport and visa documents and has remained a different
spelling from my brother's last name ever since that time on all my official documents.

1 Amended Third-Party Complaint addressed to my brother Amirzhan. Attached as **Exhibit**
2 **3** is a true and correct copy of the mailing envelope used to mail the Verified Amended
3 Third-Party Complaint addressed to Asia Pacific. Neither I nor my brother Amirzhan reside
4 at that residence. Nor do we or Asia Pacific have a place of business at that residence.
5 Nor were any of us present at the time of such alleged service.
6

7 5. The residents at 33 Skyridge, Newport Coast, California 92657, at the time
8 of the alleged service on June 30, 2009, were not and never have been a managing or
9 general agents, employees, officers or directors of Asia Pacific. Nor have they ever been
10 managing or general agents or employees for me or my brother Amirzhan. Nor have they
11 ever been authorized by Asia Pacific, me, or my brother to accept service of process or any
12 legal action against Asia Pacific, me, or my brother. I am unaware if Plaintiffs attempted
13 to serve Asia Pacific, me, or my brother by any other means than described above.
14

15 6. Regarding contacts in California or the United States, Asia Pacific does not
16 have any offices or telephone numbers in California or the United States. Neither me, my
17 brother Amirzhan, nor Asia Pacific have ever imported or otherwise distributed any
18 products to consumers in the State of California or anywhere else in the United States.
19 Neither my brother, Amirzhan, nor Asia Pacific owns or leases any real property in
20 California or the United States. Nor have Amirzhan, Asia Pacific, or I conducted any
21 advertising or marketing in California or the United States. Other than the present special
22 appearance, we have not sought use of the courts within California or elsewhere in the
23 United States. Nor have any of us been personally served with process or papers for any
24 lawsuit in California or the United States. Nor have any of us operated a business,
25 operated a web site, or issued press releases in the United States. Asia Pacific has never
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1 applied for a loan or opened a bank account in California.

2 7. Plaintiffs allege that Asia Pacific "engages in business in the U.S. and
3 internationally" and "is subject to the jurisdiction of this Court because it was used for the
4 unlawful transfer of 20% of the assets represented by the rights under the Concession,
5 because it became involved with Turan's assets in California, and because [Asia Pacific]
6 was a transferee of assets in violation of the California Uniform Fraudulent Transfer Act."
7 (Verified Third-Party Complaint, ¶ 6.) None of these allegations of the Verified Amended
8 Third-Party Complaint, or the Verified Second Amended Complaint are true or have any
9 basis in fact. Asia Pacific did not receive any monies originating from Turan's assets in
10 California; rather, it was Turan that received \$5,000,000 (U.S.) from Asia Pacific as an
11 investment in Turan Enerpetroleum, a Kazakhstan company, and for the right to exercise
12 an option to purchase Turan Petroleum's shares, an option which Asia Pacific thus far has
13 not been permitted to exercise. Nor was Asia Pacific used to transfer any assets in
14 violation of any fraudulent transfer laws.
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17 8. I am the holder of a permanent visa to live in the United States. However,
18 before February of 2008, I had never lived in California or the United States. I had visited
19 California once in 2006, while on a short vacation here, and I traveled a couple of times to
20 the eastern United States during the last several years. I came to live temporarily in
21 California from February, 2008, to June 2008. I returned to Kazakhstan from June to
22 August, 2008, to be married, then returned to California, in August, 2008, where I studied
23 English and business management at the University of California at Irvine.
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25 9. I am neither the agent nor nominee for Asia Pacific for service of process.
26 Contrary to Plaintiffs' allegations, I have not been involved in any unlawful transfer of
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1 Turan's or any other entity's stock, I have not been involved in the receipt of proceeds that
2 originated from California, and I have not knowingly violated any California laws, including
3 the California Uniform Fraudulent Transfer Act, or any other law, or damaged Plaintiffs in
4 any way.
5

6 10. I have neither conducted nor solicited any business in California or the United
7 States, other than entering into a joint venture contract in New York that never went
8 beyond the contract negotiation stage. Asia Pacific has neither conducted nor solicited any
9 business in California or the United States other than stock purchase and stock option
10 purchase contracts with Turan Petroleum on January 7, 2009. On that day, Asia Pacific
11 agreed to purchase 20 percent of the shares of a Kazakhstan company, named Turan
12 Enerpetroleum, LLP, after I was solicited by its parent company, Turan Petroleum, Inc., a
13 Nevada corporation. Asia Pacific also entered into a contract granting an option to Asia
14 Pacific to purchase 10,000,000 shares of Turan Petroleum. The total package, purchase
15 of shares in Turan Enerpetroleum and the purchase of stock options in Turan Petroleum,
16 was granted in exchange for \$5,000,000.00 (U.S.), which was paid to Turan Petroleum.
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19 11. Attached hereto as **Exhibit 4** is a true and correct copy of the original,
20 executed version of the Sale Agreement of Shares in the Capital of Turan Enerpetroleum
21 LLP, dated January 7, 2009, which was written and executed in the Russian language.
22 Attached hereto as **Exhibit 5** is a true and correct copy of the unexecuted English
23 translation of **Exhibit 4**, the Sale Agreement of Shares in the Capital of Turan
24 Enerpetroleum LLP. Attached hereto as **Exhibit 6** is a true and correct copy of the
25 executed Stock Option Agreement, Turan Petroleum, Inc., dated January 7, 2009, which
26 was originally written and signed in English. Both of these closely-related agreements are
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1 governed by **foreign law** (i.e., Kazakhstan and Nevada) and relate to the purchase of
2 shares of **foreign companies** (i.e., Kazakhstan and Nevada).

3 12. Notwithstanding the purchase of the right to exercise the stock options in
4 **Exhibit 6**, I have not been able to exercise the stock options to purchase the shares of
5 Turan Petroleum and no services have been performed pursuant to these agreements.
6

7 13. Since the foregoing transaction is governed entirely by foreign law and
8 concerns the purchase of shares only in two foreign entities, there is nothing in Asia
9 Pacific's actions which shows that it is invoking the benefits and protections of California
10 laws and the fact that the agreements were signed in California is solely because I, as
11 director, was a student in California at the time such contracts were signed. There was no
12 intention to invoke California law, as shown by the face of **Exhibits 5 and 6**.
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14 14. The transfer of 20% of Turan Enerpetroleum's stock merely represented a
15 stock purchase or investment, not a purchase or transfer of assets, in a Kazakhstan
16 company whose primary purpose is to explore and develop oil and gas fields in
17 Kazakhstan. This foreign stock purchase was concerned with development of a foreign
18 oil concession and it is merely incidental that the agreement was signed in California. No
19 California assets, interests, or companies were involved in this transaction. Thus, Asia
20 Pacific clearly was not performing some act by which it purposefully availed itself of the
21 privilege of conducting activities in California. Moreover, the place of execution of the
22 contract does not show that Asia Pacific was invoking the benefits and protections of
23 California law because both agreements are clearly governed by foreign, not California,
24 law. See **Exhibit 5**, at §5.8 and **Exhibit 6**, at §6.3.
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27 15. Asia Pacific did not receive any monies from this stock purchase transaction
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1 involving Turan Petroleum, as shown on the face of Exhibits 5 and 6. Instead, Asia
2 Pacific paid \$5,000,000 (U.S.) to make a stock investment in two foreign companies.

3 16. Plaintiffs' claims do not arise out of my forum-related activities because at the
4 time I was in California solely pursuant to a study visa.

5 I declare under penalty of perjury under the laws of the State of California and the
6 United States of America that the foregoing is true and correct. Executed on this 28 day
7 of March, 2012, in Newport Coast, California.
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11 ADILZHAN DZHAKISHEV
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